

CAMDEN COUNTY BOARD OF COMMISSIONERS**Special Meeting****5:00 p.m.****October 5, 2009****Historic Courtroom, Courthouse Complex
Camden, North Carolina****MINUTES**

A special meeting was held on Monday, October 5, 2009 at 5:00 p.m. in the Historic Courtroom, Camden, North Carolina. The following members were present:

Chairman Philip Faison
Vice Chairman Melvin J. Jeralds
Commissioners Sandy Duckwall, Garry Meiggs and P. Michael McLain

Also attending was County Manager Randell Woodruff, Clerk to the Board Ava Gurganus, County Attorney John Morrison, Planning Director Dan Porter, Permit Officer Dave Parks and Appellants Evelyn Bray Gregory and David Eves.

Chairman Philip Faison called the meeting to order at 5:00 p.m. and stated that the purpose of the meeting was to hear a Certificate of Adequate Public Schools determination appeal from Evelyn Bray Gregory for determination to place a dwelling on 265 Country Club Road. Commissioner Garry Meiggs was late and Evelyn Bray Gregory was late.

The Clerk swore in for testimony Planning Director Dan Porter, Permit Officer Dave Parks, Appellant Evelyn Bray Gregory and David Eves.

A voice recording of the proceeding is on file in the Clerk's office with the file.

Attorney John Morrison advised the Commissioners that they sit as a quasi-judicial court and must base their decision only upon the laws and ordinances that the county has passed and the evidence that has come before the board at this meeting, and nothing else.

Permit Officer Dave Parks stated that Evelyn Bray Gregory spoke to him regarding purchasing a property at 265 Country Club Road; property requirements were reviewed; the APFO process was reviewed and the CAPS application was explained. Mr. Parks stated that he informed Ms. Gregory that the High School was overcapacity on September 2, 2009 and the CAPS was denied.

Permit Officer Dave Parks presented a copy of the Adequate Facilities Ordinance and a copy of the tax card, which was submitted as evidence.

Chairman Philip Faison accepted the documents into evidence.

Permit Officer Dave Parks stated an old abandoned house was removed from the property approximately a year ago. Ms. Gregory has applied for the CAPS application and was denied due to the capacity at the High School. Ms. Gregory has appealed the denial.

John Morrison asked Dave Parks as to what was the basis Ms. Gregory's was denied and how the computation was made as to the space not being available.

Permit Officer Dave Parks stated that every time an application is received, it is compared to the schools; each building permit generates a student generation rate for each of the elementary, middle and high school. The computations are printed out and are part of the Commissioners package on the last page of the CAPS, listing the property address and the capacity of each of the schools.

Attorney John Morrison asked Dave Parks to explain the calculations and why they resulted in a denial.

Permit Officer Dave Parks deferred to Dan Porter.

Planning Director Dan Porter stated that the Commissioners had a *Certificate of Adequate Public School Capacity Individual Construction Impact Report*, which is a report that keeps a running tab of the totals of membership in schools versus the size of the school's capacity. What the

calculation does as they look at the existing membership of the schools at the beginning of the school year, add to that the average of the previous three (3) years increase in enrollment and that generates what is called a need for capacity for students. Mr. Porter stated that as projects come through and are approved, a certain number of students are added based on the number of houses that are being proposed. Mr. Porter stated that is the formula that was established in the level of services document that is associated with the APFO documents. The student generation rate is .44 students per single family dwelling; .2 students for the elementary; and .12 students for each of the middle and high school.

Attorney John Morrison asked Mr. Porter if that was adopted by the Board for the formula to use, to which Mr. Porter replied, that was adopted by the Board at the time that the ordinance was approved.

Attorney John Morrison asked Mr. Porter if that was still the formula that was used and part of the ordinance, to which Mr. Porter replied that was correct and part of the ordinance. Mr. Porter stated that the ordinance reads that if any school is over capacity, then the certificate will be denied.

No questions were heard from the Board.

Ms. Gregory and Mr. Eves did not ask any questions of Mr. Porter or Mr. Parks.

Attorney John Morrison reviewed and logged into evidence from the Petitioner "Exhibit A" that the Petitioner's letter dated by the Clerk today as October 5, 2009; "Exhibit B" a copy of Section 153.01 – 153.11 of the Camden County Ordinances; "Exhibit C" a copy of the tax card for 265 Country Club Road Dorothy L. Parker; and "Exhibit D" a series of photographs of residential structures.

Chairman Philip Faison accepted the Petitioners documents into evidence.

All exhibits offered by both the county and the Petitioner were accepted into evidence.

Commissioner Sandy Duckwall stated that after she read the letter, she asked Ms. Gregory if she feels that she falls under an exception which is the redevelopment of an existing residential lot.

Ms. Gregory stated that she did not know the exact definitions and the definition of redevelopment ordinance was not in the ordinance. Ms. Gregory stated that her child is in Camden County schools and is very active and would like to stay in Camden County schools. Ms. Gregory asked if her child is counted in the total to determine the capacity overage and stated her child is already counted in the capacity figures. Ms. Gregory stated her child would not be an impact on the school system because they are only relocating from Shiloh to County Club Road because of a divorce in order to keep her in the same school.

Chairman Philip Faison asked Dave Parks how does this differ from the homes that the county is tearing down and replacing with new homes.

Dave Parks stated there have been a lot of dilapidated properties in the county, including this property here, and dilapidated structures are not exempt in the ordinance and are deemed as vacant lots.

Chairman Philip Faison stated that the people who are receiving CDBG houses have to pay the \$10,000.00 fee also.

Dan Porter stated CDBG houses are rebuildable and have not been condemned. It is considered replacement housing and do not have to pay APFO. The county has had a few people who's houses have been condemned or who's houses are too dilapidated to be repaired. In that case if they have not been lived in for a period of six (6) months, then they have to reapply for a new building permit which is subject to the same APFO.

Attorney John Morrison stated that Ms. Gregory applied in September 2009. Mr. Parks stated the structure had been removed over a year ago and Ms. Gregory testified that the structure was removed in the spring. In the time that Ms. Gregory applied, there was no existing unit for redevelopment. The controlling time is when Ms. Gregory applies and at that time there was no existing structure.

Commissioner Sandy Duckwall asked the Planning Department: there are three (3) options and one of them is that if capacity becomes available at the schools then she can reapply, how would Ms. Gregory know if capacity became available.

Dan Porter stated that the Planning Department has a file of denials and when there is capacity, the person denied will be contacted to see if they are still interested. Dave Parks stated the date applied will be the priority of who is contacted.

Ms. Gregory stated that when the figures were taken for the APFO the structure was there on Country Club Road as a livable structure and counted as a home. Ms. Gregory stated that she was told that there was never any house condemned on Country Club Road in the Planning Department.

Attorney John Morrison stated that whether the structure was condemned or not is irrelevant; whether it was in existence at the time the figures were computed would be irrelevant. What is relevant is at the time of the application, does it exist and the evidence is that it did not. The language is redevelopment of existing units and addition to existing residential units. There is no residential unit there now and there was none at the time this application was filed.

Ms. Gregory asked if it says in the ordinance existing at the time of application.

Attorney John Morrison stated no, that it is certainly implied.

Ms. Gregory stated that the argument would be that there was a home on that property and it was a residence for family members to attend the schools and totals were taken for this reason.

Attorney John Morrison stated that in the tax records submitted by Dave Parks it indicates that in November 30, 2005 that the unit is unlivable and the value is described as attributable to the house and the tax is on the land only.

Ms. Gregory stated the information she was given that was the taxes in 2006 still paid on the building and is in the information presented. The taxes were paid solely on the land in 2007. The property was listed in poor condition.

Dave Parks stated November 2005 is when the county revaluated the properties in the county.

Commissioner Michael McLain asked who tore down the house, to which Ms. Gregory replied that the owner tore it down in April 2009.

Commissioner Michael McLain questioned who the owner of the land is, to which Ms. Gregory replied that Mr. Harley Cole owns the land and that she had put a down payment on the land awaiting the outcome of this appeal to see exactly where they need to go with everything and if it could be in her affordability bracket.

Commissioner Michael McLain stated that Mr. Cole owns the property but the tax cards are in the name of Dorothy L. Parker, to which Ms. Gregory stated that Mr. Cole bought the property from a family situation that needed to sell and Mr. Cole cleaned the property for resale.

Commissioner Michael McLain asked if Ms. Gregory was buying a vacant lot and Ms. Gregory stated that she is buying a home from him that will also be put on the property.

Attorney John Morrison asked Ms. Gregory if she is currently living in Camden County, to which Ms. Gregory replied, yes and just settle a divorce and is currently living with friends in Camden County.

Attorney John Morrison asked Ms. Gregory if she lives in Camden County; has a child living with her; leaving the house in Shiloh and going into the Country Club Road house, to which Ms. Gregory replied, yes.

Ms. Gregory stated that the family that moved into her last residence in Shiloh, the children were already enrolled in Camden Schools and the people that moved into their house, were also in enrolled in Camden Schools. It was a matter of relocating in Camden County due to divorce situation.

Ms. Gregory quoted Camden County Code of Ordinances, page 7, paragraph (D) *Exceptions:This chapter does not apply to any use, development, project, structure, fence, sign or activity that does not create an impact on public school facilities.*

Ms. Gregory stated because of the children already being enrolled in the Camden County Schools, that would be a clear exception.

Attorney John Morrison asked Ms. Gregory to explain the photographs and she read the second paragraph on page 2.

Commissioner Garry Meiggs asked if there is a time frame to make an application if a structure is torn down to which Attorney Morrison replied, no.

Commissioner Michael McLain stated that Ms. Gregory did not own the property at all during the time and Ms. Gregory does not own the property yet, but has an offer to purchase to which Ms. Gregory stated that she has a down payment on the property.

Attorney John Morrison asked if the down payment was contingent upon approval and would she get her money back, to which Ms. Gregory replied that she had not thought that far.

Chairman Philip Faison called for any questions.

Attorney John Morrison advised that at this time it would be appropriate to vote as to issuing a grant by statutory exception to the application. A yes vote would mean that in the Board's opinion Ms. Gregory has establish the right to place the modular home on the vacant lot and that would be an exception given her circumstances under the APFO of the Camden County Code of Ordinances. A no vote would mean that Ms. Gregory has not met the exception and the Commissioners are affirming what the Planning Board did.

Chairman Philip Faison polled the Board: Commissioner Michael McLain voted no; Commissioner Garry Meiggs voted no; Chairman Philip Faison voted no; Commissioner Melvin Jeralds voted no; Commissioner Sandy Duckwall voted no. Chairman Philip Faison stated the motion was 5-0 to deny the CAPS appeal.

Adjournment

Commissioner Sandy Duckwall made a motion to adjourn the meeting. The motion passed the with Commissioners Melvin Jeralds, Sandy Duckwall, Garry Meiggs, Michael McLain and Chairman Philip Faison voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

The meeting adjourned at 5:56 p.m.

Philip S. Faison, Chairman
Camden County Board of Commissioners

ATTEST:

Ava J. Gurganus
Clerk to the Board